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ATTORNEYS FOR PLAINTIFF JANE DOE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

JANE DOE, an individual using a  
pseudonym,

Plaintiff,

v.

UBER TECHNOLOGIES, INC.,  
RASIER, LLC, RASIER CA, LLC,

Defendants.

Case No. 3:19-cv-03310-JSC

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT**

Date: January 6, 2022  
Time: 1:30 p.m.

**Assigned to Magistrate Judge  
Jacqueline Scott Corley**

Action Filed: June 12, 2019  
Trial Date: September 12, 2022

The parties hereby submit this joint statement in advance of the Case  
Management Conference scheduled for 1:30 p.m. on January 6, 2022.

Under submission to the Court at the time of the filing of this joint statement  
is a January 3, 2022 joint letter brief regarding the parties' dispute over the scope,  
manner, duration, and location of Plaintiff's upcoming mental health examination by  
Uber's expert, Dr. April Thames, Ph.D. (Doc. 152). The current schedule is that  
Plaintiff intends to fly to San Francisco on Sunday, January 9, submit to a mental  
health examination on Monday, January 10, and give deposition testimony on  
Tuesday, January 11. Plaintiff has insisted that all parties present during both her

1 IME and deposition be masked in light of the ongoing COVID-19 pandemic. That is  
2 mandated by a San Francisco Public Health Ordinance that is in effect until at least  
3 January 22.

4 Uber appreciates the significance of the current public health situation and  
5 intends to fully comply with all laws, regulations and ordinances. However, Uber  
6 requests that the Plaintiff wear a clear mask for both her IME and deposition to  
7 allow view of her facial expressions and because the deposition will be videotaped.  
8 Uber has ordered a variety of clear masks that it will provide.

9 Plaintiff has booked her flight and made hotel reservations, as has Uber's  
10 counsel and expert. Plaintiff will come if the schedule holds and is able to travel. But  
11 Plaintiff's counsel believes that it would be appropriate to put a pause on having the  
12 mental health examination and deposition happen next week. We are in the midst of  
13 an unprecedented and unpredictable surge in the COVID pandemic fueled by the  
14 highly contagious omicron variant. Several members of Plaintiff's firm have tested  
15 positive in recent weeks, despite being vaccinated, boosted and cautious. If the  
16 proceedings happen next week, then not only will Plaintiff have to fly to San  
17 Francisco, but so will counsel for Uber and Dr. Thames. There many risks associated  
18 with the air travel and the proceedings. Someone might test positive at the last  
19 moment and be unable to travel. Flights may be cancelled. Defendants want to have  
20 Plaintiff spend about 16 hours in closed rooms with strangers next Monday and  
21 Tuesday. Someone in that room might be unknowingly infected and contagious.  
22 According to Plaintiff's counsel, early data shows that even N95 masks (which clear  
23 masks are not) do not always stop the spread of the omicron variant. In sum, the  
24 risks and burdens associated with those in-person proceedings greatly outweigh the  
25 need for them to happen next week. Plaintiff would agree to either postponing them  
26 for at least 30 days, or to having them occur remotely. Plaintiff does not seek to re-  
27 litigate the issue of whether she has to appear in person for these proceedings, but she  
28 notes that the public health picture has dramatically changed since the Court issued

1 the order. If the exam and deposition are postponed, then the pre-trial schedule will  
 2 have to be adjusted. There is still much time between now and the September trial  
 3 date.

4 Uber will agree to Plaintiff's request to postpone this key deposition and  
 5 Plaintiff's examination s only if all deadlines are continued in this case, including  
 6 the trial date. The current case schedule is tight. Uber needs to depose and examine  
 7 the Plaintiff to appropriately gather evidence and informatoin before designating  
 8 experts, producing expert reports or having experts offer deposition testimony. Also,  
 9 completing fact and expert discovery is necessary before Uber files a motion for  
 10 summary judgment supported by the underlying evidence. Uber requests either a  
 11 stay pending the *Doe v. Uber* case pending in the California Court of Appeal on the  
 12 same legal issues in this case or a a continuance of all deadlines by 80 days if  
 13 Plaintiff's deposition and examninatoin are postponed. The Court recently granted  
 14 Uber's motion for issuance of letters rogatory with respect to Cuauhtli Padilla. Uber  
 15 strongly prefers that Plaintiff attempt to obtain Mr. Padilla's compliance to  
 16 voluntarily appear for his deposition via Zoom prior to the current January 21, 2022  
 17 fact discovery cut-off. Uber's position is that it would be unduly prejudiced by not  
 18 having Mr. Padilla's testimony before the expert disclosure deadline (February 7) or  
 19 the MSJ deadline (April 7). In addition to the categories of testimony listed  
 20 previously, Plaintiff recently amended discovery responses which asked her to  
 21 identify any individuals that had ever submitted a third-party ride request on her  
 22 behalf through the Uber App prior to the subject incident. While Plaintiff initially  
 23 responded by identifying Mr. Padilla and "maybe her sister", and stated that she  
 24 believes she had taken no more than five to six guest rides prior to August 14, 2018,  
 25 she later changed her response to only her sister and one guest ride. Uber should be  
 26 able to ask Mr. Padilla about this glaring inconsistency under oath. Experience using  
 27 the system is a key issue.

28 Plaintiff acknowledges the Court's ruling on the letters rogtory. Plaintiff's

1 counsel does not believe that Uber should now have to go through that process if it  
 2 can be avoided. Plaintiff will reach out to Mr. Padilla to see if he would agree to  
 3 appear for a remote deposition without the need for a formal subpoena.

4 Also pending is Uber's motion to maintain the confidentiality of portions of the  
 5 depositions of Nick Silver and Jodi Kawada Page, set for hearing on January 27,  
 6 2022.

7 Uber is producing the remaining witnesses in response to Plaintiff's  
 8 outstanding 30(b)(6) topics on January 5, 6, 18, 19, and 20.

9 Uber previously noticed the following depositions, which have not been  
 10 rescheduled at this time but to which Plaintiff makes no objection:

- 11 • The remote deposition of Joan Taylor, RN (San Mateo SART nurse who  
 12 examined Plaintiff) on November 30.
- 13 • The remote deposition of Brandyn Davis, RN (San Mateo SART nurse  
 14 who examined Plaintiff) on November 30.
- 15 • The remote deposition of Julio Cesar Gamez Mendez, Master, M.G.T.  
 16 (mental health counselor from whom Plaintiff received treatment in  
 17 Guadalajara) on December 2, 2021.
- 18 • The remote deposition of Geri Archibald, NP (San Mateo health care  
 19 professional who examined Plaintiff) on December 2.

20 Per the Court's scheduling order of November 18, 2021, the fact discovery  
 21 cutoff is now January 21, 2022, and the initial expert disclosure deadline is now  
 22 February 7, 2022. The Court vacated the settlement conference with Judge Westmore  
 23 and indicated in its November 18, 2021 order that it would discuss the settlement  
 24 conference at this January case management conference. The parties will be  
 25 prepared to discuss a proposed date for rescheduling the settlement conference at the  
 26 January 6, 2022 case management conference.

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28 ////

1 Dated: January 5, 2022

WALKUP, MELODIA, KELLY & SCHOENBERGER

2  
3 By: /s/ Matthew D. Davis

4 MATTHEW D. DAVIS

5 SARA M. PETERS

6 ANDREW P. McDEVITT

Attorneys for PLAINTIFF JANE DOE

7 Dated: January 5, 2022

**PERKINS COIE LLP**

8  
9 By: /s/ Julie L. Hussey

JULIE L. HUSSEY

JULIAN FELDBEIN-VINDERMAN

10 Attorneys for DEFENDANTS UBER

11 TECHNOLOGIES, INC., RASIER, LLC, and

RAISER-CA, LLC